

VIRGINIA:

IN THE CIRCUIT COURT FOR FAIRFAX COUNTY

COMMONWEALTH OF VIRGINIA,

v.

CRIMINAL NO. 102888
Hon. Jane Marum Roush

LEE BOYD MALVO,

Defendant

**MOTION TO REQUIRE COMMONWEALTH TO
PROVIDE RESUME AND BACKGROUND INFORMATION
AS TO ANY MENTAL HEALTH EXPERT IT
PROPOSES FOR APPOINTMENT BY THE COURT**

COMES NOW the defendant, Lee Malvo, by his co-counsels, and states as follows:

1. The Commonwealth has requested that the defense give advance notice if it intends to use mental health testimony in mitigation should a penalty phase be reached.
2. Should the defense give notice and the Commonwealth thereafter seek an evaluation concerning the existence or absence of mitigating circumstances relating to the defendant's mental condition at the time of the offense, "the court shall appoint one or more qualified experts to perform such an evaluation." Virginia Code Section 19.2-264.3:1(F).
3. In order for the Court and the defendant to determine and comment upon whether any expert proposed by the Commonwealth is qualified for Court appointment, it will be necessary for the Commonwealth to provide a resume and background information on any expert nominated for Court appointment. The defense has no objection to the resume and background information being filed under seal.

FILED
CRIMINAL

03 AUG 13 PM 3:49
JAMES FREY
CLERK, CIRCUIT COURT
FAIRFAX, VA

804-358-3947(Fax)
VSB No: 16593

CERTIFICATE OF SERVICE

We/I hereby certify that a true copy of the foregoing Motion/Memorandum was mailed,
first class mail to:

Robert F. Horan, Jr., Esquire
Commonwealth's Attorney
4110 Chain Bridge Road
Room 123
Fairfax, VA 22030

and the original was forwarded for filing to:

Hon. John T. Frey
Clerk
Fairfax County Circuit Court
Fairfax County Judicial Center
4110 Chain Bridge Road
Fairfax, VA 22030-4009

and a true copy was forwarded to the

Hon. Jane Marum Roush
Judge
Fairfax County Circuit Court
Fairfax County Judicial Center
4110 Chain Bridge Road
Fairfax, VA 22030-4009

this 13th day of August, 2003.

Co-Counsel

Co-Counsel